

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RICHARD R. WAKELEY,

Plaintiff,

v.

BANK OF AMERICA, *et al.*,

Defendants.

Case No. C13-1250-TSZ-MAT

ORDER GRANTING PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME

Plaintiff Richard Wakeley is a state prisoner who is currently confined at the Monroe Correctional Complex – Twin Rivers Unit (MCC-TRU). On July 16, 2013, plaintiff submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983 in which he appeared to allege that he had been defrauded by the Bank of America and that the Department of Corrections had tampered with his legal mail. Plaintiff identified the Bank of America and the Department of Corrections as the only defendants in this action. After reviewing plaintiff's complaint, this Court determined that plaintiff had not identified any viable defendant and that the action therefore could not proceed. Thus, on August 16, 2013, this Court issued an Order directing plaintiff to show cause within 30 days why the action should not be dismissed.

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01 Plaintiff recently submitted to the Court for consideration a motion for an extension of  
02 time, presumably to respond to the Order to Show Cause, and a “motion to amend information”  
03 in which he asks that he be permitted to substitute individual MCC-TRU employees as  
04 defendants for the previously named Department of Corrections. Plaintiff also indicates that  
05 he is seeking to obtain the names of individual bank officers, presumably so that those  
06 individuals can be substituted as defendants for the previously named Bank of America.

07 The Court, having reviewed plaintiff’s submissions, does hereby ORDER as follows:

08 (1) Plaintiff’s motion for an extension of time (Dkt. No. 11) is GRANTED.  
09 Plaintiff may file a response to the Order to Show Cause not later than ***October 15, 2013***.

10 (2) Plaintiff’s motion to amend information (Dkt. No. 12) is DENIED. If plaintiff  
11 wishes to change the defendants identified in his original complaint, or to otherwise amend the  
12 information contained therein, the appropriate way to accomplish this is by filing an amended  
13 complaint in which he clearly identifies each of the proposed new defendants and each of the  
14 claims he intends to assert against those defendants. Plaintiff is reminded that in order to  
15 adequately allege a cause of action under § 1983, he must identify the constitutional right he  
16 believes was violated by the conduct of each individual defendant and he must set forth *specific*  
17 fact showing how each individual personally participated in causing the harm alleged.

18 As it appears that plaintiff may be contemplating adding to this action individual Bank  
19 of America employees, plaintiff is reminded that only state actors are subject to suit in a civil  
20 rights action brought under § 1983. Individual Bank of America employees are unlikely to  
21 qualify as state actors for purposes of this action.

22 If plaintiff elects to file an amended complaint addressing the deficiencies identified in

01 this Court's previous Order, he need not file a response to the Order to Show Cause. However,  
02 any amended complaint must be received by the date set forth above. Plaintiff is advised that  
03 his failure to timely file either a response to the Order to Show Cause or an amended complaint  
04 will result in a recommendation that this action be dismissed.

05 (3) The Clerk is directed to send a copy of this Order to plaintiff and to the  
06 Honorable Thomas S. Zilly.

07 DATED this 6th day of September, 2013.

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10 Mary Alice Theiler  
11 Chief United States Magistrate Judge  
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